

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

IN RE PORK ANTITRUST LITIGATION

This Document Relates To:

ALL COMMERCIAL AND INSTITUTIONAL  
INDIRECT PURCHASER PLAINTIFF ACTIONS

Case No. 0:18-cv-01776-JRT-HB

**JBS USA FOOD COMPANY'S ANSWER  
TO COMMERCIAL AND  
INSTITUTIONAL INDIRECT  
PURCHASER PLAINTIFFS' THIRD  
AMENDED AND CONSOLIDATED  
CLASS ACTION COMPLAINT**

Defendant JBS USA Food Company (“JBS USA”) submits its answer and affirmative defenses to the Third Amended Consolidated Class Action Complaint (“Complaint”) of the Commercial and Institutional Indirect Purchaser Plaintiffs (“Plaintiffs”), filed on January 14, 2020, as follows. Solely for the purpose of responding herein, JBS USA shall consider the U.S. pork-producing and hog-producing operations of its subsidiaries to be within JBS USA’s possession, custody, and control.

### **I. NATURE OF ACTION**

1. JBS USA admits it produces and sells pork and pork products in the United States. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph related to other Defendants, and therefore denies them. JBS USA denies the remaining allegations in Paragraph 1, including that it was a co-conspirator.

2. Paragraph 2 contains legal arguments and conclusions of law to which no response is required. JBS USA denies the remaining allegations in Paragraph 2, including that it engaged in any conspiracy with any of the other Defendants and acted in furtherance of an alleged conspiracy with other Defendants.<sup>1</sup>

3. Paragraph 3 contains legal arguments and conclusions of law to which no response is required. JBS USA admits that it used Agri Stats as a benchmarking during at least some portion of the relevant time period but denies the remaining allegations in Paragraph 3, including that the data Agri Stats provided is current or forward-looking, that JBS USA engaged

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<sup>1</sup> To the extent a response is required for Footnote 2, JBS USA admits that Plaintiffs purport to define certain terms for the purposes of their use in the Complaint, but denies Plaintiffs’ respective allegations, including Plaintiffs’ characterization of those terms, because it lacks sufficient information to form an independent belief concerning the truth of the allegations.

in any conspiracy with any of the other Defendants, or that JBS USA engaged in anticompetitive conduct, or coordinated such conduct with other Defendants.

4. Paragraph 4 contains legal arguments and conclusions of law to which no response is required. JBS USA admits that it received benchmarking data from Agri Stats during at least some portion of the relevant time period but denies the remaining allegations in Paragraph 4, including that the data Agri Stats provided was current or forward-looking, that it engaged in any conspiracy with any of the other Defendants or that it used Agri Stats information in furtherance of a conspiracy or that it was a co-conspirator. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph related to other Defendants, including as to Agri Stats, and therefore denies them.

5. Paragraph 5 contains legal arguments and conclusions of law to which no response is required. JBS USA denies that it made or received any public signals to or from any other Defendant during the relevant time period. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph related to other Defendants, including as to Agri Stats, and therefore denies them. JBS USA denies the remaining allegations in Paragraph 5, including that it discussed or participated in coordinated supply cuts with any Defendant.

6. Paragraph 6 contains legal arguments and conclusions of law to which no response is required. JBS USA denies the remaining allegations in Paragraph 6, including that it colluded with or participated in a price-fixing scheme with any of the other Defendants.

7. Paragraph 7 contains legal arguments and conclusions of law to which no response is required. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph related to other Defendants,

and therefore denies them. JBS USA denies the remaining allegations in Paragraph 7, including that it colluded with or participated in an unlawful information exchange with the other Defendants through Agri Stats, and that it, together with other Defendants, restricted the supply of pork.

## **II. JURISDICTION AND VENUE**

8. Paragraph 8 contains legal arguments and conclusions of law to which no response is required. To the extent a response is required, JBS USA denies the allegations in this Paragraph.

9. Paragraph 9 contains legal arguments and conclusions of law to which no response is required. JBS USA denies the remaining allegations in Paragraph 9.

10. Paragraph 10 contains legal arguments and conclusions of law to which no response is required. JBS USA admits that it has transacted business in this district at certain points in time. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of any allegations related to other Defendants, and therefore denies them. JBS USA denies the remaining allegations in Paragraph 10.

11. Paragraph 11 contains legal arguments and conclusions of law to which no response is required. JBS USA admits that it has transacted business in the United States and this District at certain points in time. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of any allegations related to other Defendants or third parties and therefore denies them. JBS USA denies the remaining allegations in Paragraph 11.

12. Paragraph 12 contains legal arguments and conclusions of law to which no response is required. JBS USA denies the remaining allegations in Paragraph 12.

13. Paragraph 13 contains legal arguments and conclusions of law to which no response is required. To the extent a response is required, JBS USA denies the allegations in this Paragraph.

### **III. PARTIES**

#### **A. Plaintiffs**

14. Paragraph 14 contains legal arguments and conclusions of law to which no response is required. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph and therefore denies them.

15. Paragraph 15 contains legal arguments and conclusions of law to which no response is required. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph and therefore denies them.

16. Paragraph 16 contains legal arguments and conclusions of law to which no response is required. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph and therefore denies them.

17. Paragraph 17 contains legal arguments and conclusions of law to which no response is required. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph and therefore denies them.

18. Paragraph 18 contains legal arguments and conclusions of law to which no response is required. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph and therefore denies them.

19. Paragraph 19 contains legal arguments and conclusions of law to which no response is required. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph and therefore denies them.

20. Paragraph 20 contains legal arguments and conclusions of law to which no response is required. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph and therefore denies them.

21. Paragraph 21 contains legal arguments and conclusions of law to which no response is required. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph and therefore denies them.

22. Paragraph 22 contains legal arguments and conclusions of law to which no response is required. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph and therefore denies them.

23. Paragraph 23 contains legal arguments and conclusions of law to which no response is required. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph and therefore denies them.

**B. Defendants**

**Agri Stats**

24. Paragraph 24 contains legal arguments and conclusions of law to which no response is required. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph and therefore denies them.

**Clemens**

25. Paragraph 25 contains legal arguments and conclusions of law to which no response is required. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph and therefore denies them.

26. Paragraph 26 contains legal arguments and conclusions of law to which no response is required. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph and therefore denies them.

**Hormel**

27. Paragraph 27 contains legal arguments and conclusions of law to which no response is required. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph and therefore denies them.

28. Paragraph 28 contains legal arguments and conclusions of law to which no response is required. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph and therefore denies them.

**Indiana Packers**

29. Paragraph 29 contains legal arguments and conclusions of law to which no response is required. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph and therefore denies them.

**JBS**

30. Paragraph 30 contains legal arguments and conclusions of law to which no response is required. JBS USA admits that it is a subsidiary of JBS USA Food Company Holdings and is a Delaware corporation, headquartered in Greeley, Colorado. JBS USA admits that it sold pork products in the United States during the relevant time period. JBS USA denies any remaining allegations in Paragraph 30.

**Seaboard**

31. Paragraph 31 contains legal arguments and conclusions of law to which no response is required. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph and therefore denies them.

32. Paragraph 32 contains legal arguments and conclusions of law to which no response is required. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph and therefore denies them.

**Smithfield**

33. Paragraph 33 contains legal arguments and conclusions of law to which no response is required. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph and therefore denies them.

**Triumph**

34. Paragraph 34 contains legal arguments and conclusions of law to which no response is required. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph and therefore denies them.

**Tyson**

35. Paragraph 35 contains legal arguments and conclusions of law to which no response is required. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph and therefore denies them.

36. Paragraph 36 contains legal arguments and conclusions of law to which no response is required. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph and therefore denies them.

37. Paragraph 37 contains legal arguments and conclusions of law to which no response is required. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph and therefore denies them.



#### IV. FACTUAL ALLEGATIONS

38. Paragraph 38 contains legal arguments and conclusions of law to which no response is required. JBS USA denies the remaining allegations in Paragraph 38, including that it engaged in any conspiracy, entered into an anticompetitive agreement or price-fixing scheme, engaged in anticompetitive conduct or coordinated such conduct with other Defendants, or together with other Defendants, controlled the supply and price of pork.

**A. Defendants' anticompetitive scheme started from Agri Stats' central role in collusion in the Broiler industry.**

39. JBS USA denies the allegations in the heading that appears before this Paragraph. Paragraph 39 contains legal arguments and conclusions of law, including with regard to a different proceeding, the Broiler litigation, to which no response is required. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations, and therefore denies them.

40. Paragraph 40 contains legal arguments and conclusions of law, including with regard to a different proceeding, the Broiler litigation, to which no response is required. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations, and therefore denies them.

41. Paragraph 41 contains legal arguments and conclusions of law, including with regard to a different proceeding, the Broiler litigation, to which no response is required. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations, especially as to those related to the Broiler litigation and the broiler industry, and therefore denies them.

42. Paragraph 42 contains legal arguments and conclusions of law, including with regard to a different proceeding, the Broiler litigation, to which no response is required. JBS

USA lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations, and therefore denies them.

43. Paragraph 43 contains legal arguments and conclusions of law, including with regard to a different proceeding, the Broiler litigation, to which no response is required. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations, and therefore denies them.

**B. After success in the Broiler industry, Agri Stats began marketing its collusive scheme to the swine integrators.**

44. JBS USA denies the allegations in the heading that appears before this Paragraph. Paragraph 44 contains legal arguments and conclusions of law to which no response is required. JBS USA admits that it received benchmarking data from Agri Stats during at least some portion of the relevant time period but denies the remaining allegations in Paragraph 44, including that it engaged in a conspiracy with any of the other Defendants, or that it in engaged in anticompetitive conduct, or coordinated such conduct with other Defendants, or, together with other Defendants, controlled the supply and price of pork. In fact, benchmarking is procompetitive since it can “render markets more, rather than less, competitive,” *United States v. U.S. Gypsum Co.*, 438 U.S. 422, 441 n.16 (1978) and “can enhance competition by making competitors more sensitive to each other’s price changes, enhancing rivalry among them.” *Todd v. Exxon Corp.*, 275 F.3d 191, 214 (2d Cir. 2001). JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations as to Agri Stats and therefore denies them.

45. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in Paragraph 45, and therefore denies them.

46. Paragraph 46 contains legal arguments and conclusions of law to which no response is required. JBS USA admits that the document referenced in Paragraph 46 contains the quoted language, but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterizations of this document, because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the document that Plaintiffs purport to quote is the best evidence of its complete and accurate contents. JBS USA denies the allegations in this Paragraph with respect to itself, including that it engaged in any conspiracy or entered into an agreement to share information with any of the other Defendants, or that it engaged in anticompetitive conduct. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations in this Paragraph, and therefore denies them.

47. JBS USA admits that the document cited in Paragraph 47 contains the quoted language, but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterizations of this document, because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the document that Plaintiffs purport to quote is the best evidence of its complete and accurate contents. JBS USA denies the allegations in this Paragraph with respect to itself, and lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations in this Paragraph, and therefore denies them.

48. Paragraph 48 contains legal arguments and conclusions of law to which no response is required. JBS USA admits that it used Agri Stats as a benchmarking service during at least some portion of the relevant time period. JBS USA denies the remaining allegations in

Paragraph 48, including that it engaged in an anticompetitive scheme or agreement with other Defendants.

**C. Agri Stats provided pork integrators the unparalleled ability to monitor pricing and production, and to discipline co-conspirators for not complying with the collusive agreement.**

49. JBS USA denies the allegations in the heading that appears before this Paragraph.

Paragraph 49 contains legal arguments and conclusions of law to which no response is required. JBS USA denies the remaining allegations in Paragraph 49, including that it engaged in an anticompetitive scheme or agreement with other Defendants.

50. Paragraph 50 contains legal arguments and conclusions of law to which no response is required. JBS USA admits that this Paragraph contains a citation to a document with the quoted language but denies Plaintiffs' respective allegations, including Plaintiffs' characterization of that document because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the document that Plaintiffs purport to cite from is the best evidence of its complete and accurate contents. JBS USA admits that it received benchmarking data from Agri Stats during at least some portion of the relevant time period but denies the remaining allegations as to other Defendants because it lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them. JBS USA denies the remaining allegations in Paragraph 50, including that it is a member of a conspiracy.

51. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them.

52. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them.

53. Paragraph 53 contains legal arguments and conclusions of law to which no response is required. JBS USA admits that it received benchmarking data from Agri Stats during at least some portion of the relevant time period but denies the remaining allegations as to its content because the reports that JBS USA received from Agri Stats are the best evidence of their complete and accurate contents. JBS USA denies the remaining allegations in Paragraph 53, including that it participated in an anticompetitive scheme.

54. JBS USA admits that the allegations in Paragraph 54 describe certain general features of the hog production cycle. JBS USA notes that these allegations are incomplete and imprecise and that JBS USA otherwise lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them.

55. JBS USA admits that Paragraph 55 purports to reference a portion of a presentation but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterizations of that presentation, because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the presentation that Plaintiffs purport to reference is the best evidence of its complete and accurate contents. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations in this Paragraph, and therefore denies them.

56. Paragraph 56 contains legal arguments and conclusions of law to which no response is required. JBS USA admits that the document referenced in this Paragraph contains certain information but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterizations of that document, because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the document that Plaintiffs purport to quote is the best evidence of its complete and accurate contents. JBS USA

denies the allegations in this Paragraph with respect to itself, including that it is a co-conspirator. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations in this Paragraph, and therefore denies them.

57. Paragraph 57 contains legal arguments and conclusions of law to which no response is required. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them.

58. Paragraph 58 contains legal arguments and conclusions of law to which no response is required. JBS USA admits that Paragraph 58 purportedly contains a portion of a document but denies Plaintiffs' respective allegations, including Plaintiffs' characterization of that document, because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the document that Plaintiffs purport to reference is the best evidence of its complete and accurate contents. JBS USA denies the remaining allegations in Paragraph 58 with respect to itself, including that it participated in a conspiracy, and lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations in this Paragraph, and therefore denies them.

59. JBS USA admits that the document cited in Paragraph 59 contains the quoted language, but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterizations of this document, because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the document that Plaintiffs purport to quote is the best evidence of its complete and accurate contents. JBS USA denies the remaining allegations in Paragraph 59 with respect to itself, and lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations in this Paragraph, and therefore denies them.

60. Paragraph 60 contains legal arguments and conclusions of law to which no response is required. JBS USA denies the remaining allegations in Paragraph 60 with respect to itself, including that it is a co-conspirator, and lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations in this Paragraph, and therefore denies them.

61. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them.

62. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them.

63. Paragraph 63 contains legal arguments and conclusions of law to which no response is required. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them. JBS USA denies the remaining allegations in Paragraph 63, including that it was a member of a conspiracy or coordinated with Defendants to control the supply of pork, and that the data Agri Stats provided is forward-looking.

64. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them. JBS USA denies the remaining allegations in Paragraph 64.

65. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them. JBS USA denies the remaining allegations in Paragraph 65.

66. JBS USA admits that it received benchmarking data from Agri Stats during at least some portion of the relevant time period. JBS USA admits that Paragraph 66 contains

references to documents that Plaintiffs purport to characterize but denies Plaintiffs' respective allegations, including Plaintiffs' characterization of these documents because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the documents that Plaintiffs purport to characterize are the best evidence of their complete and accurate contents. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations in this Paragraph, and therefore denies them.

67. JBS USA admits that it received benchmarking data from Agri Stats during at least some portion of the relevant time period. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them.

68. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them.

69. Paragraph 69 contains legal arguments and conclusions of law to which no response is required. JBS USA denies the remaining allegations in Paragraph 69, including that it was a participant in a collusive scheme or a member of a cartel.

70. JBS USA admits that the article referenced in Paragraph 70 contains the quoted language, but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterizations of that article, because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the article that Plaintiffs purport to quote is the best evidence of its complete and accurate contents.

**D. Defendants controlled the supply and production of pork in the United States, which allowed the scheme to succeed.**

71. JBS USA denies the allegations in the heading that appears before this Paragraph. JBS USA denies the allegations in this Paragraph with respect to itself and lacks knowledge or



information sufficient to form an independent belief as to the truth of the allegations in this Paragraph related to other Defendants or third parties or related to purported trends in the industry as a whole, and therefore denies them. JBS USA denies the remaining allegations in Paragraph 71.

72. JBS USA denies the allegations in this Paragraph with respect to itself and lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph related to other Defendants or third parties, and therefore denies them.

73. JBS USA admits that the document referenced in Paragraph 73 contains the quoted language, but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterizations of that document, because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the document that Plaintiffs purport to quote is the best evidence of its complete and accurate contents. JBS USA denies the remaining allegations in Paragraph 73 with respect to itself and lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph related to other Defendants or third parties, and therefore denies them.

74. JBS USA admits that the allegations in this Paragraph describe certain general features of the hog production cycle. JBS USA notes that these allegations are incomplete and imprecise and that JBS USA otherwise lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them.

75. JBS USA admits that Paragraph 75 contains a diagram but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterization of that diagram, because it lacks sufficient information to form an independent belief concerning the truth of the allegations,

and because Plaintiffs have not produced their analyses or underlying data or sufficiently described their methodologies. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations in this Paragraph, and therefore denies them.

76. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them.

77. JBS USA admits that the document referenced in Paragraph 77 contains the quoted language, but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterizations of this document, because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the document that Plaintiffs purport to quote is the best evidence of its complete and accurate contents. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations in this Paragraph, and therefore denies them.

78. JBS USA admits that the documents referenced in the Paragraph 78 contain the referenced information, but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterizations of those documents, because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the documents that Plaintiffs purport to cite are the best evidence of its complete and accurate contents. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations in this Paragraph, and therefore denies them..

79. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph related to Clemens Food Group or third parties, and therefore denies them.

80. JBS USA admits that it acquired Cargill's U.S.-based pork business on October 30, 2015. JBS USA denies the remaining allegations in Paragraph 80.

81. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph related to Triumph or third parties, and therefore denies them.

82. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph related to Tyson, and therefore denies them.

83. JBS USA admits that the website referenced in Paragraph 83 contains the quoted language, but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterizations of that website, because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the website that Plaintiffs purport to cite is the best evidence of its complete and accurate contents. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations in this Paragraph, and therefore denies them.

84. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph related to Hormel or third parties, and therefore denies them.

85. JBS USA admits that it processes and sells pork under various name brands in the United States. JBS USA denies the remaining allegations in Paragraph 85 with respect to itself and lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph related to other Defendants or third parties, and therefore denies them.

**E. The level of concentration in the pork industry was optimal for Defendants' collusive scheme.**

86. JBS USA denies the allegations in the heading that appears before this Paragraph. JBS USA admits that the document cited in Paragraph 86 contains the quoted language, but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterizations of this document, because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the document that Plaintiffs purport to quote is the best evidence of its complete and accurate contents. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations in this Paragraph, and therefore denies them.

87. Paragraph 87 contains legal arguments and conclusions of law to which no response is required. JBS USA admits that certain pork producers raise at least some hogs utilized for pork production. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations in Paragraph 87, and therefore denies them.

88. JBS USA admits that it acquired Cargill's U.S.-based pork business on October 30, 2015. JBS USA admits that Paragraph 88 contains a graph but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterization of that graph, because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the document that Plaintiffs purport to reference is the best evidence of its contents and also because Plaintiffs have not produced their analyses or underlying data or sufficiently described their methodologies. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in Paragraph 88, and therefore denies them..

89. JBS USA admits that it announced its intention to acquire Cargill's pork business in July 2015 for approximately \$1.45 billion. JBS USA lacks knowledge or information sufficient to form an independent belief as to the remaining allegations in Paragraph 89, and therefore denies them.

90. JBS USA admits that it acquired Cargill's U.S.-based pork business on October 30, 2015 and that it was reported that its business, after the acquisition and when combined with JBS USA's existing pork business in the U.S., had pro forma net revenue of approximately \$6.3 billion and a processing capacity of about 90,000 hogs per day and two million pounds of bacon per week. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations in this Paragraph, and therefore denies them.

91. JBS USA admits that Paragraph 91 contains a timeline and admits that JBS USA acquired Cargill's U.S.-based pork business on October 30, 2015 but denies Plaintiffs' remaining allegations, including Plaintiffs' characterization of that timeline, and because Plaintiffs have not produced their analyses or underlying data or sufficiently described their methodologies. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them..

92. Paragraph 92 contains legal arguments and conclusions of law to which no response is required. JBS USA admits that the table in Paragraph 92 contains certain information, but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterizations of that information because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the document that Plaintiffs purport to reference is the best evidence of its complete and accurate contents. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of

the allegations in this Paragraph related to other Defendants or third parties, and therefore denies them. JBS USA denies the remaining allegations in Paragraph 92, including that it colluded with Defendants or other pork processors to manipulate the price of pork products, restrict the supply of pork, or otherwise control the pork market.

93. Paragraph 93 contains legal arguments and conclusions of law to which no response is required. JBS USA denies the allegations in Paragraph 93 as to itself, including that it participated in any collusion. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them.<sup>2</sup>

94. Paragraph 94 contains legal arguments and conclusions of law to which no response is required. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them. JBS USA denies the remaining allegations in Paragraph 94, including that it colluded with or entered into any price-fixing or otherwise unlawful agreements with Defendants or other third parties to manipulate the price of goods in the pork industry.

95. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations in this Paragraph, and therefore denies them.

96. Paragraph 96 contains legal arguments and conclusions of law to which no response is required. JBS USA admits that Paragraph 96 contains a graph but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterization of that graph, because it

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<sup>2</sup> To the extent a response is required for Footnote 34, JBS USA admits that the website cited by Plaintiffs in the Footnote discusses the Herfindahl-Hirschman Index and that the Herfindahl-Hirschman Index is a measurement of market concentration, but denies Plaintiffs' respective allegations, including Plaintiffs' characterizations of that website because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the website that Plaintiffs purport to quote is the best evidence of its complete and accurate contents. JBS USA denies the remaining allegations in Footnote 34.

lacks sufficient information to form an independent belief concerning the truth of the allegations, and because Plaintiffs have not produced their analyses or underlying data or sufficiently described their methodologies. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations in this Paragraph, and therefore denies them.

97. JBS USA admits that Paragraph 97 contains legal arguments and conclusions of law to which no response is required. JBS USA admits that Paragraph 97 contains a graph but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterization of that graph, because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because Plaintiffs have not produced their analyses or underlying data or sufficiently described their methodologies. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations in this Paragraph, and therefore denies them.

98. Paragraph 98 contains legal arguments and conclusions of law to which no response is required. JBS USA admits that a document referenced in Paragraph 98 discusses that an expansion cost Cargill \$25 million. JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterizations of that document, because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the document that Plaintiffs purport to quote is the best evidence of its complete and accurate contents. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations in this Paragraph, and therefore denies them.

99. Paragraph 99 contains legal arguments and conclusions of law to which no response is required. JBS USA lacks knowledge or information sufficient to form an

independent belief as to the truth of the remaining allegations in this Paragraph, and therefore denies them.

**F. The inelastic demand for, and homogeneity of, pork products facilitated collusion**

100. JBS USA denies the allegations in the heading that appears before this Paragraph. Paragraph 100 contains legal arguments and conclusions of law to which no response is required. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them.

101. Paragraph 101 contains legal arguments and conclusions of law to which no response is required. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them.<sup>3</sup>

**G. Defendants took advantage of numerous opportunities to collude.**

102. JBS USA denies the allegations in the heading that appears before this Paragraph. JBS USA admits that certain employees and executives participated in certain trade organizations at various points in time but JBS USA denies that any such participation was intended to or did facilitate conspiratorial conduct. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph related to other Defendants or third parties, and therefore denies them. JBS USA denies the remaining allegations in Paragraph 102.

103. Paragraph 103 contains legal arguments and conclusions of law to which no response is required. JBS USA admits that it is required by law to participate in Pork Checkoff but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterization of the underlying legislation, because it lacks sufficient information to form an independent belief

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<sup>3</sup> To the extent a response is required for Footnote 41, JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Footnote, and therefore denies them.



concerning the truth of the allegations, and because the legislation and other related materials are the best evidence of its complete and accurate contents. JBS USA denies the remaining allegations in Paragraph 103.

104. Paragraph 104 contains legal arguments and conclusions of law to which no response is required. JBS USA admits that it is required by law to participate in Pork Checkoff but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterization of the underlying legislation, because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the legislation and other related materials are the best evidence of its complete and accurate contents. JBS USA denies the remaining allegations in Paragraph 104.

105. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations in this Paragraph, and therefore denies them.

106. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them.

107. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them.

108. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them.<sup>4</sup>

109. Paragraph 109 contains legal arguments and conclusions of law to which no response is required. JBS USA admits that certain employees attended at least one NPPC event during the relevant time period but denies Plaintiffs' respective allegations, including that JBS

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<sup>4</sup> To the extent a response is required for Footnote 42, JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations, and therefore denies them.

USA discussed pricing, production or other non-public proprietary information in informal settings with other Defendants or third parties or that JBS USA was part of a plan to artificially restrict pork production. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations in this Paragraph, and therefore denies them.

110. JBS USA admits that Plaintiffs in this Paragraph reference an article but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterization of that article, because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the article is the best evidence of its complete and accurate contents. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations in this Paragraph, and therefore denies them.

111. JBS USA admits that certain JBS USA personnel attended certain NAMI events during the relevant time period, but lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations in this Paragraph, and therefore denies them.

112. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them.

113. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them.

114. JBS USA admits that at least Andre Nogueira served on the board of NAMI at some point during the class period and during his employment with JBS USA in a role that involved, on some level, JBS USA's pork business. JBS USA lacks knowledge or information

sufficient to form an independent belief as to the truth of the allegations in this Paragraph related to other Defendants or third parties, and therefore denies them.

115. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them.

116. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them.

117. JBS USA admits that a document referenced in the Complaint contains certain information, but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterizations of that document, because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the document that Plaintiffs purport to quote is the best evidence of its complete and accurate contents. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them.

118. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them.

119. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them..

120. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them.

121. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them.

122. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them.

**H. Defendants implemented capacity and supply restraints during the Class Period.**

**1. Summary of Defendants' Conspiratorial Supply Restraints**

123. JBS USA denies the allegations in the headings that appear before this Paragraph. Paragraph 123 contains legal arguments and conclusions of law to which no response is required. JBS USA admits that the document referenced in Paragraph 123 contains the quoted language, but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterizations of this document, because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the document that Plaintiffs purport to quote is the best evidence of its complete and accurate contents. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations in this Paragraph, and therefore denies them.

124. Paragraph 124 contains legal arguments and conclusions of law to which no response is required. JBS USA admits that Paragraph 124 contains a graph but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterization of that graph, because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because Plaintiffs have not produced their analyses or underlying data or sufficiently described their methodologies. JBS USA admits that deadly pig disease and porcine epidemic diarrhea virus adversely impacted the U.S. pork industry but denies the remaining allegations in Paragraph 124 as to itself, including that it was a member of a conspiracy or that it acted in a concerted way with other pork producers to decrease the supply of pork. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them.<sup>5</sup>

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<sup>5</sup> To the extent a response is required for Footnote 45, JBS USA admits that the document cited by Plaintiffs in the footnote is titled "Pork and Swine: Industry and Trade Summary," but denies

125. Paragraph 125 contains legal arguments and conclusions of law to which no response is required. JBS USA admits that the document referenced in the Paragraph 125 contains the quoted language, but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterizations of this document, because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the document that Plaintiffs purport to quote is the best evidence of its complete and accurate contents. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations in this Paragraph, and therefore denies them. JBS USA denies the remaining allegations in this Paragraph, including that it unlawfully coordinated supply cuts with other pork producers.

126. Paragraph 126 contains legal arguments and conclusions of law to which no response is required. JBS USA admits that Paragraph 126 contains a graph but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterization of that graph, because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because Plaintiffs have not produced their analyses or underlying data or sufficiently described their methodologies. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in Paragraph 126 which relate to other Defendants, third parties, or as to purported trends in the industry as a whole, and therefore denies those allegations. JBS USA denies the remaining allegations in Paragraph 126, including that it participated in unlawful supply constraints or engaged in any collective action with the other Defendants or third parties.

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Plaintiffs' respective allegations, including Plaintiffs' characterizations of the document because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the document that Plaintiffs purport to quote is the best evidence of its complete and accurate contents.

127. Paragraph 127 contains legal arguments and conclusions of law to which no response is required. JBS USA denies the remaining allegations in Paragraph 127, including that it was a member of a conspiracy or that it participated in unlawful supply constraints.

**a. Smithfield**

128. JBS USA admits that the document referenced in Paragraph 128 contains the quoted language, but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterizations of that document, because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the document that Plaintiffs purport to quote is the best evidence of its complete and accurate contents. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations in this Paragraph related to other Defendants, and therefore denies them.

129. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them.

**b. Tyson**

130. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them.

**c. JBS/Cargill**

131. JBS USA admits that the document referenced in Paragraph 131 contains the quoted language from the "Economic Scenario" section of the 2016 annual report of the Brazilian company JBS S.A., but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterizations of that document, because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the document that Plaintiffs purport to quote is the best evidence of its complete and accurate contents. JBS USA

denies the remaining allegations in Paragraph 131, including that it participated in unlawful supply constraints.

**d. Hormel**

132. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them.

**e. Seaboard**

133. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them.<sup>6</sup>

**f. Triumph**

134. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph and therefore denies them.

**g. Clemens**

135. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph and therefore denies them.

**h. Indiana Packers**

136. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph related to other Defendants or third parties, and therefore denies them.

**2. Timeline of the Conspiracy**

137. JBS USA denies the allegations in the heading that appears before this Paragraph. Paragraph 137 contains legal arguments and conclusions of law to which no response is required.

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<sup>6</sup> To the extent a response is required for Footnote 49, JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Footnote, and therefore denies them.

JBS USA denies the allegations in this Paragraph, including that it was involved in any anticompetitive behavior during the alleged conspiracy period, that it acted in contravention of its own individual economic self-interest or as part of a coordinated conspiracy to reduce and restrict supply, or that it acted to fix, raise, or stabilize the price of pork via unlawful coordination with other companies. JBS USA further denies that it worked to maintain secrecy or conceal any anticompetitive agreement or that it used Agri Stats data or made any public statements with the exploitative purpose of communicating planned supply restrictions in furtherance of the alleged conspiracy. JBS USA further denies the remaining allegations in this Paragraph with respect to itself and lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations related to other Defendants or third parties, and therefore denies them.

138. Paragraph 138 contains legal arguments and conclusions of law to which no response is required. JBS USA admits that the document referenced in Paragraph 138 contains the quoted language, but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterizations of that document, because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the document that Plaintiffs purport to quote is the best evidence of its complete and accurate contents. JBS USA denies the remaining allegations in Paragraph 138, including that it was a member of a conspiracy to restrict pork supply.

139. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph related to other Defendants or third parties, and therefore denies them.



140. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph and therefore denies them.

141. JBS USA admits that the document referenced in Paragraph 141 contains certain information, but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterizations of that document, because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the document that Plaintiffs reference is the best evidence of its complete and accurate contents. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations in this Paragraph, and therefore denies them.

142. JBS USA admits that this Paragraph contains a citation to a document from which Plaintiffs purport to quote but denies Plaintiffs' respective allegations, including Plaintiffs' characterization of that document because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the document that Plaintiffs purport to cite from is the best evidence of its complete and accurate contents. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph related to other Defendants or third parties, and therefore denies them.

143. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in Paragraph 143, and therefore denies them.

144. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in Paragraph 144, and therefore denies them.

145. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in Paragraph 145, and therefore denies them.

146. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in Paragraph 146, and therefore denies them.

147. JBS USA admits that the document referenced in Paragraph 147 contains the quoted language, but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterizations of this document, because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the document that Plaintiffs purport to quote is the best evidence of its complete and accurate contents. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations in Paragraph 147, and therefore denies them.

148. JBS USA admits that the document referenced in Paragraph 148 contains some of the quoted language, but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterizations of that document, because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the document that Plaintiffs purport to quote is the best evidence of its complete and accurate contents. JBS USA denies the allegations in the first sentence of Paragraph 148 and specifically denies that JBS USA participated in hog liquidation efforts. Indeed, the same earnings call transcript explicitly states "in the U.S. . . . we don't have hog production." JBS USA denies the remaining allegations in Paragraph 148.

149. JBS USA admits that the language quoted in Paragraph 149 is contained within the Smithfield Foods Q1 2010 Earnings Call Transcript (Dkt No. 435-3), but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterizations of the quoted language because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the Smithfield Foods Q1 2010 Earnings Call Transcript that Plaintiffs

purport to quote is the best evidence of its complete and accurate contents. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations in Paragraph 149, and therefore denies them.

150. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in Paragraph 150, and therefore denies them.

151. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph related to other third parties, and therefore denies them.

152. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in Paragraph 152, and therefore denies them.

153. JBS USA admits that the document referenced in Paragraph 153 contains the quoted language, but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterizations of this document, because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the document that Plaintiffs purport to quote is the best evidence of its complete and accurate contents. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations in this Paragraph, and therefore denies them. JBS USA denies the allegations in the fourth sentence of Paragraph 153, including that the quoted language from the quarterly earnings call of JBS USA's parent, the Brazilian company JBS S.A. references any actions taken by JBS USA itself. JBS USA denies the remaining allegations in Paragraph 153, including that it discussed or participated in coordinated supply cuts with any Defendant or that it publicly signaled that it would "adhere[]" to an "agreed upon scheme to limit hog supply," particularly as JBS USA did not have any meaningful hog production at this time.

154. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in Paragraph 154, including those which relate to purported trends in the industry as a whole, and therefore denies those allegations. Insofar as the allegations are directed at JBS USA, JBS USA denies any collective action with the other Defendants or third parties.

155. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in Paragraph 155, and therefore denies them.

156. JBS USA denies the allegations in this Paragraph with respect to itself and lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph related to other Defendants, and therefore denies them.

157. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph related to other Defendants, and therefore denies them.

158. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in Paragraph 158, and therefore denies them.

159. JBS USA denies the allegations in this Paragraph with respect to itself and lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph related to other Defendants, and therefore denies them.

160. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph related to other third parties, and therefore denies them.

161. JBS USA admits that the article cited in Paragraph 161 contains the quoted language, but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs'

characterizations of this article, because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the article that Plaintiffs purport to quote is the best evidence of its complete and accurate contents. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations in Paragraph 161, and therefore denies them.

162. JBS USA denies the allegations in this Paragraph with respect to itself and lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph related to other Defendants, and therefore denies them.

163. JBS USA admits that the document referenced in Paragraph 163 contains the quoted language, but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterizations of this document, because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the document that Plaintiffs purport to quote is the best evidence of its complete and accurate contents. JBS USA denies that the quoted language from the quarterly earnings call of JBS USA's parent, the Brazilian company JBS S.A. references any actions taken by JBS USA itself. Indeed, JBS USA did not have any meaningful hog production at this time. JBS USA denies that the quoted earnings call occurred on May 15, 2013, because the transcript was misdated and is, in fact, a record of a May 15, 2014 earnings call presenting and analyzing the results for "1Q 14." JBS USA denies the remaining allegations in Paragraph 163.

164. Paragraph 164 contains legal arguments and conclusions of law to which no response is required. JBS USA admits that the PED virus epidemic caused supply reductions in 2013 and 2014 and that the website cited in Paragraph 164 contains the quoted language, but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterizations of that

website, because it lacks sufficient information to form an independent belief concerning the truth of the allegations, and because the website that Plaintiffs purport to quote is the best evidence of its complete and accurate contents. Insofar as the allegations in Paragraph 164 are directed at JBS USA, JBS USA denies any collective action with other Defendants or third parties. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the remaining allegations in this Paragraph, and therefore denies them.

165. Paragraph 165 contains legal arguments and conclusions of law to which no response is required. JBS USA admits that the PED virus caused supply reductions in the industry in 2013 and 2014. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them. JBS USA denies the remaining allegations in Paragraph 165, including insofar as this Paragraph alleges that JBS USA engaged in collective action with the other Defendants or third parties.

166. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph related to other third parties, and therefore denies them.

167. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in Paragraph 167, and therefore denies them.

**I. Abnormal pricing during the Class Period demonstrates the success of the collusive scheme.**

168. JBS USA denies the allegations in the heading that appears before this Paragraph. Paragraph 168 contains legal arguments and conclusions of law to which no response is required. JBS USA denies the allegations in Paragraph 168, including that it acted as a member of a "conspiracy to increase prices of pork," that it "conspired to restrict production" of pork, or that it "otherwise acted in a concerted manner to increase pork prices in the U.S." JBS USA

lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in Paragraph 168 which relate to other Defendants, third parties, or as to purported trends in the industry as a whole, and therefore denies those allegations. JBS USA denies the remaining allegations in Paragraph 168.

**1. The average hog wholesale price experienced an unprecedented increase beginning in 2009.**

169. JBS USA denies the allegations in the heading that appears before this Paragraph. Paragraph 169 contains legal arguments and conclusions of law to which no response is required. JBS USA admits that Paragraph 169 contains a graph but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterization of that graph, because it lacks sufficient information to form an independent belief concerning the truth of the allegations and because Plaintiffs have not produced their analyses or underlying data or sufficiently described their methodologies. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in Paragraph 169 which relate to other Defendants, third parties, or as to purported trends in the industry as a whole, and therefore denies those allegations. JBS USA denies the remaining allegations in Paragraph 169, including that it engaged in any collective action with the other Defendants or third parties.

170. Paragraph 170 contains legal arguments and conclusions of law to which no response is required. JBS USA admits that Paragraph 170 contains a graph but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterization of that graph, because it lacks sufficient information to form an independent belief concerning the truth of the allegations and because Plaintiffs have not produced their analyses or underlying data or sufficiently described their methodologies. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in Paragraph 170 which relate to other

Defendants, third parties, or as to purported trends in the industry as a whole, and therefore denies those allegations. JBS USA denies the remaining allegations in Paragraph 170.

**2. The pork cut-out composite price experienced a dramatic increase beginning in 2009 and continuing throughout the class period.**

171. JBS USA denies the allegations in the heading that appears before this Paragraph. JBS USA admits that Paragraph 171 contains a graph but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterization of that graph, because it lacks sufficient information to form an independent belief concerning the truth of the allegations and because Plaintiffs have not produced their analyses or underlying data or sufficiently described their methodologies. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in Paragraph 171, which relate to purported trends in the industry as a whole, and therefore denies those allegations. JBS USA denies the remaining allegations in Paragraph 171, including that it engaged in any collective action with the other Defendants or third parties.

172. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in Paragraph 172, and therefore denies them.

173. JBS USA admits that Paragraph 173 contains a graph but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterization of that graph, because it lacks sufficient information to form an independent belief concerning the truth of the allegations and because Plaintiffs have not produced their analyses or underlying data or sufficiently described their methodologies. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in Paragraph 173 which relate to purported trends in the industry as a whole, and therefore denies those allegations. JBS USA denies the



remaining allegations in Paragraph 173, including that it engaged in any collective action with the other Defendants or third parties.

174. JBS USA admits that Paragraph 174 contains a graph but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterization of that graph, because it lacks sufficient information to form an independent belief concerning the truth of the allegations and because Plaintiffs have not produced their analyses or underlying data or sufficiently described their methodologies. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in Paragraph 174 which relate to purported trends in the industry as a whole, and therefore denies those allegations. JBS USA denies the remaining allegations in Paragraph 174, including that it engaged in any collective action with the other Defendants or third parties.

175. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in Paragraph 175, and therefore denies them.

**J. Overcharges due to the cartel were reflected in higher pork prices.**

176. JBS USA denies the allegations in the heading that appears before this Paragraph. JBS USA denies the allegations in the heading that appears before this Paragraph. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them. JBS USA denies the remaining allegations in this Paragraph 176.

177. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in Paragraph 177, and therefore denies them. JBS USA denies the remaining allegations in Paragraph 177, including that it had a "common goal" with other Defendants to increase the price of pork or their margins.

178. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them.

179. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them.

180. JBS USA admits that Paragraph 180 contains a graph but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterization of that graph, because it lacks sufficient information to form an independent belief concerning the truth of the allegations and because Plaintiffs have not produced their analyses or underlying data or sufficiently described their methodologies. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in Paragraph 180 which relate to purported trends in the industry as a whole, and therefore denies those allegations. JBS USA denies the remaining allegations in Paragraph 180, including that it engaged in any collective action with the other Defendants or third parties.

181. JBS USA admits that Paragraph 181 contains a graph but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterization of that graph, because it lacks sufficient information to form an independent belief concerning the truth of the allegations and because Plaintiffs have not produced their analyses or underlying data or sufficiently described their methodologies. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in Paragraph 181 which relate to purported trends in the industry as a whole, and therefore denies those allegations. JBS USA denies the remaining allegations in Paragraph 181, including that it engaged in any collective action with the other Defendants or third parties.

182. JBS USA admits that Paragraph 182 contains a graph but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterization of that graph, because it lacks sufficient information to form an independent belief concerning the truth of the allegations and because Plaintiffs have not produced their analyses or underlying data or sufficiently described their methodologies. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in Paragraph 182 which relate to purported trends in the industry as a whole, and therefore denies those allegations. JBS USA denies the remaining allegations in Paragraph 182, including that it engaged in any collective action with the other Defendants or third parties.

183. JBS USA admits that Paragraph 183 contains a graph but JBS USA denies Plaintiffs' respective allegations, including Plaintiffs' characterization of that graph, because it lacks sufficient information to form an independent belief concerning the truth of the allegations and because Plaintiffs have not produced their analyses or underlying data or sufficiently described their methodologies. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in Paragraph 183 which relate to purported trends in the industry as a whole, and therefore denies those allegations. JBS USA denies the remaining allegations in Paragraph 183, including that it engaged in any collective action with the other Defendants or third parties or that it was involved in a conspiracy.

184. Paragraph 184 contains legal arguments and conclusions of law to which no response is required. JBS USA denies the allegations in Paragraph 184, including that it engaged in an anticompetitive agreement to stabilize the price and supply of pork.

**K. Defendants actively concealed the conspiracy and Plaintiffs did not and could not have discovered Defendants' anticompetitive conduct.**

185. JBS USA denies the allegations in the heading that appears before this Paragraph. JBS USA denies the allegations in the heading that appears before this Paragraph. Paragraph 185 contains legal arguments and conclusions of law to which no response is required. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph related to other Defendants or third parties, and therefore denies them. JBS USA denies the remaining allegations in Paragraph 185, including that it engaged in a conspiracy or unlawful combination.

186. Paragraph 186 contains legal arguments and conclusions of law to which no response is required. JBS USA admits that it received benchmarking data from Agri Stats during at least some portion of the relevant time period but denies the remaining allegations in Paragraph 186, including that it engaged in any collective action with the other Defendants or third parties, or that it participated in any conspiracy or unlawful agreement.

187. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in Paragraph 187, and therefore denies them.

188. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in Paragraph 188, and therefore denies them.

189. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in Paragraph 189, and therefore denies them.

190. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in Paragraph 190, and therefore denies them.

191. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in Paragraph 191, and therefore denies them. JBS USA denies the remaining allegations in Paragraph 191.

192. JBS USA admits that a Second Consolidated and Amended Complaint was filed by the Direct Purchaser Plaintiffs in the *In Re Broiler Chicken Antitrust Litigation*, Case No. 1:16-cv-08637 (N.D. Ill.), on February 7, 2018. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in this Paragraph, and therefore denies them.

193. JBS USA lacks knowledge or information sufficient to form an independent belief as to the truth of the allegations in Paragraph 193, and therefore denies them. JBS USA admits that it received benchmarking data from Agri Stats during at least some portion of the relevant time period but denies the remaining allegations in Paragraph 193, including that it "share[d] confidential industry information that could facilitate an anticompetitive conspiracy."

194. Paragraph 194 contains legal arguments and conclusions of law to which no response is required. JBS USA denies the remaining allegations in Paragraph 194, including the allegation it engaged in an anticompetitive conspiracy.

195. Paragraph 195 contains legal arguments and conclusions of law to which no response is required. JBS USA denies the remaining allegations in Paragraph 95, including the allegations that it participated in an unlawful combination and conspiracy.

## **V. CLASS ACTION ALLEGATIONS**

196. JBS USA admits that Plaintiffs purport to bring this action on behalf of themselves and as a class as described in Paragraph 196, but denies that any class may be

certified in this action, denies that Plaintiffs are entitled to any relief, and denies any remaining allegations in Paragraph 196.

197. JBS USA admits that Plaintiffs purport to bring this action on behalf of themselves and as a class as described in Paragraph 197, but denies that any class may be certified in this action, denies that Plaintiffs are entitled to any relief, and denies any remaining allegations in Paragraph 197.

198. JBS USA admits that Plaintiffs refer to certain purported classes as described in Paragraph 198.

199. Paragraph 199 contains no factual allegations to which a response is required. To the extent a response is required, JBS USA denies the allegations.

200. Paragraph 200 contains no factual allegations to which a response is required. To the extent a response is required, JBS USA denies the allegations.

201. Paragraph 201 contains legal arguments and conclusions of law to which no response is required. JBS USA denies the remaining allegations in Paragraph 201, including that it was a member of a conspiracy.

202. Paragraph 202 contains legal arguments and conclusions of law to which no response is required. JBS USA denies the remaining allegations in Paragraph 201, including that it was a co-conspirator.

203. Paragraph 203 contains legal arguments and conclusions of law to which no response is required. To the extent a response is required, JBS USA denies the allegations.

204. Paragraph 204 contains legal arguments and conclusions of law to which no response is required. To the extent a response is required, JBS USA denies the allegations.

205. Paragraph 205 contains legal arguments and conclusions of law to which no response is required. To the extent a response is required, JBS USA denies the allegations.

206. Paragraph 206 contains legal arguments and conclusions of law to which no response is required. To the extent a response is required, JBS USA denies the allegations.

## **VI. ANTITRUST INJURY**

207. Paragraph 207 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 207.

208. Paragraph 208 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 208.

209. Paragraph 209 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 209.

210. Paragraph 210 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 210.

## **VII. CAUSES OF ACTION**

### **Count One**

#### **Violation of Sections 1 and 3 of the Sherman Act (on behalf of Plaintiffs and the Nationwide Class)**

211. JBS USA incorporates by reference and reasserts its answers to each preceding paragraph in Plaintiffs' Complaint as if fully set forth herein in its answer to this Paragraph.

212. Paragraph 212 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 212.

213. Paragraph 213 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 213.

214. Paragraph 214 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 214.

215. Paragraph 215 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 215.

216. Paragraph 216 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 216.

217. Paragraph 217 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 217.

218. Paragraph 218 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 218.



219. Paragraph 219 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 219.

220. Paragraph 220 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 220.

## **Count Two**

### **Violation of State Antitrust Statutes** **(on behalf of Plaintiffs and the Damages Class)**

221. JBS USA incorporates by reference and reasserts its answers to each preceding Paragraph in Plaintiffs' Complaint as if fully set forth herein in its answer to this Paragraph.

222. Paragraph 222 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 222.

223. Paragraph 223 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 223.

224. Paragraph 224 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 224.

225. Paragraph 225 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 225.

226. Paragraph 226 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 226.

227. Paragraph 227 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 227. JBS USA denies that Plaintiffs are entitled to any of the relief requested in Paragraph 227.

228. Paragraph 228 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 228.

229. Paragraph 229 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 229.

230. Paragraph 230 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 230.

231. Paragraph 231 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 251.

232. Paragraph 232 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 232.

233. Paragraph 233 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 233.

234. Paragraph 234 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 234.

235. Paragraph 235 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 235.

236. Paragraph 236 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 236.

237. Paragraph 237 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 237.

238. Paragraph 238 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 238.

239. Paragraph 239 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 239.

240. Paragraph 240 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 240.

241. Paragraph 241 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 241.

242. Paragraph 242 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 242.

243. Paragraph 243 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 243.

244. Paragraph 244 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 244.

245. Paragraph 245 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 245.

246. Paragraph 246 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 246.

247. Paragraph 247 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 247.

248. Paragraph 248 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 248.

249. Paragraph 249 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 249.

250. Paragraph 250 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 250.

251. Paragraph 251 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 251.

252. Paragraph 252 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 252.

### **Count Three**

#### **Violation of State Consumer Protection Statutes (on Behalf of Plaintiffs and the Damages Class)**

253. JBS USA incorporates by reference and reasserts its answers to each preceding Paragraph in Plaintiffs' Complaint as if fully set forth herein in its answer to this Paragraph.

254. Paragraph 254 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 254.

255. Paragraph 255 contains legal arguments and conclusions of law to which no response is required. To the extent a response is required, JBS USA admits Plaintiffs appear to be selectively quoting and/or attempting to characterize the language of a state statute and JBS USA denies any characterization or description that is inconsistent therewith.

256. Paragraph 256 contains legal arguments and conclusions of law to which no response is required. To the extent a response is required, JBS USA admits Plaintiffs appear to be selectively quoting and/or attempting to characterize the language of a state statute and JBS USA denies any characterization or description that is inconsistent therewith.

257. Paragraph 257 contains legal arguments and conclusions of law to which no response is required. To the extent a response is required, JBS USA admits Plaintiffs appear to be selectively quoting and/or attempting to characterize the language of a state statute and JBS USA denies any characterization or description that is inconsistent therewith.

258. Paragraph 258 contains legal arguments and conclusions of law to which no response is required. To the extent a response is required, JBS USA admits Plaintiffs appear to be selectively quoting and/or attempting to characterize the language of a state statute and JBS USA denies any characterization or description that is inconsistent therewith.

259. Paragraph 259 contains legal arguments and conclusions of law to which no response is required. To the extent a response is required, JBS USA admits Plaintiffs appear to be selectively quoting and/or attempting to characterize the language of a state statute and JBS USA denies any characterization or description that is inconsistent therewith.

260. Paragraph 260 contains legal arguments and conclusions of law to which no response is required. To the extent a response is required, JBS USA admits Plaintiffs appear to be selectively quoting and/or attempting to characterize the language of a state statute and JBS USA denies any characterization or description that is inconsistent therewith.

261. Paragraph 261 contains legal arguments and conclusions of law to which no response is required. To the extent a response is required, JBS USA admits Plaintiffs appear to be selectively quoting and/or attempting to characterize the language of a state statute and JBS USA denies any characterization or description that is inconsistent therewith.

262. Paragraph 262 contains legal arguments and conclusions of law to which no response is required. To the extent a response is required, JBS USA admits Plaintiffs appear to be selectively quoting and/or attempting to characterize the language of a state statute and JBS USA denies any characterization or description that is inconsistent therewith.

263. Paragraph 263 contains legal arguments and conclusions of law to which no response is required. To the extent a response is required, JBS USA admits Plaintiffs appear to be selectively quoting and/or attempting to characterize the language of a state statute and JBS USA denies any characterization or description that is inconsistent therewith.

264. Paragraph 264 contains legal arguments and conclusions of law to which no response is required. To the extent a response is required, JBS USA admits Plaintiffs appear to be selectively quoting and/or attempting to characterize the language of a state statute and JBS USA denies any characterization or description that is inconsistent therewith.

265. Paragraph 265 contains legal arguments and conclusions of law to which no response is required. To the extent a response is required, JBS USA admits Plaintiffs appear to

be selectively quoting and/or attempting to characterize the language of a state statute and JBS USA denies any characterization or description that is inconsistent therewith.

266. Paragraph 266 contains legal arguments and conclusions of law to which no response is required. To the extent a response is required, JBS USA admits Plaintiffs appear to be selectively quoting and/or attempting to characterize the language of a state statute and JBS USA denies any characterization or description that is inconsistent therewith.

267. Paragraph 267 contains legal arguments and conclusions of law to which no response is required. To the extent a response is required, JBS USA admits Plaintiffs appear to be selectively quoting and/or attempting to characterize the language of a state statute and JBS USA denies any characterization or description that is inconsistent therewith.

268. Paragraph 268 contains legal arguments and conclusions of law to which no response is required. To the extent a response is required, JBS USA admits Plaintiffs appear to be selectively quoting and/or attempting to characterize the language of a state statute and JBS USA denies any characterization or description that is inconsistent therewith.

269. Paragraph 269 contains legal arguments and conclusions of law to which no response is required. To the extent a response is required, JBS USA admits Plaintiffs appear to be selectively quoting and/or attempting to characterize the language of a state statute and JBS USA denies any characterization or description that is inconsistent therewith.

270. Paragraph 270 contains legal arguments and conclusions of law to which no response is required. To the extent a response is required, JBS USA admits Plaintiffs appear to be selectively quoting and/or attempting to characterize the language of a state statute and JBS USA denies any characterization or description that is inconsistent therewith.



**Count Four**

**Unjust Enrichment<sup>7</sup>**  
**(on behalf of Plaintiffs and the Damages Class)**

271. JBS USA incorporates by reference and reasserts its answers to each preceding Paragraph in Plaintiffs' Complaint as if fully set forth herein in its answer to this Paragraph.<sup>8</sup>

272. Paragraph 272 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 272.

273. Paragraph 273 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 273.

274. Paragraph 274 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 274.

275. Paragraph 275 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 275.

276. Paragraph 276 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 276.

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<sup>7</sup> Unjust enrichment claims are alleged herein under the laws of the states for which claims are alleged in Counts Two and Three above.

<sup>8</sup> To the extent a response is required for Footnote 83, Footnote 83 contains legal arguments and conclusions of law to which no response is required. JBS USA denies the remaining allegations in Footnote 83.

277. Paragraph 277 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 277.

278. Paragraph 278 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 278.

279. Paragraph 279 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 279.

280. Paragraph 280 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 280.

281. Paragraph 281 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 281.

282. Paragraph 282 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 282.

283. Paragraph 283 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 283.

284. Paragraph 284 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 284.

285. Paragraph 285 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 285.

286. Paragraph 286 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 286.

287. Paragraph 287 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 287.

288. Paragraph 288 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 288.

#### **VIII. RELIEF SOUGHT**

289. Paragraph 289 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 289. JBS USA denies that Plaintiffs are entitled to any of the relief requested in Paragraph 289.

290. Paragraph 290 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in

Paragraph 290. JBS USA denies that Plaintiffs are entitled to any of the relief requested in Paragraph 290.

291. Paragraph 291 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 291. JBS USA denies that Plaintiffs are entitled to any of the relief requested in Paragraph 291.

292. Paragraph 292 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 292. JBS USA denies that Plaintiffs are entitled to any of the relief requested in Paragraph 292.

293. Paragraph 293 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 293. JBS USA denies that Plaintiffs are entitled to any of the relief requested in Paragraph 293.

294. Paragraph 294 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 294. JBS USA denies that Plaintiffs are entitled to any of the relief requested in Paragraph 294.

295. Paragraph 295 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 295. JBS USA denies that Plaintiffs are entitled to any of the relief requested in Paragraph 295.

296. Paragraph 296 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 296. JBS USA denies that Plaintiffs are entitled to any of the relief requested in Paragraph 296.

297. Paragraph 297 contains legal arguments and conclusions of law to which no response is required. To the extent that a response is required, JBS USA denies the allegations in Paragraph 297. JBS USA denies that Plaintiffs are entitled to any of the relief requested in Paragraph 297.

#### **IX. JURY TRIAL DEMANDED**

298. Paragraph 298 contains no factual allegations to which a response is required. To the extent a response is required, JBS USA also demands a jury trial, as set forth below.

JBS USA denies each and every allegation of Plaintiffs' Complaint not hereinabove specifically admitted, explained, or modified.

#### **DEFENSES**

Without assuming any burden that it would not otherwise bear, JBS USA asserts the following defenses. These defenses are pleaded in the alternative, and do not constitute an admission that JBS USA is in any way liable to Plaintiffs, that Plaintiffs have been or will be injured or damaged in any way, or that Plaintiffs are entitled to any relief whatsoever. As a defense to the Second Amended Complaint and each and every allegation contained therein, JBS USA alleges:

1. Plaintiffs' claims are barred, in whole or in part, because Plaintiffs have failed to state a claim upon which relief can be granted.
2. Plaintiffs' claims are barred, in whole or in part, because Plaintiffs have not suffered any injury in fact and/or any injury cognizable under the antitrust laws.
3. Plaintiffs' claims are barred, in whole or in part, because they lack standing to bring this action against JBS USA.
4. Plaintiffs' claims are barred, in whole or in part, because any alleged injuries and damages were not legally or proximately caused by any acts or omissions of JBS USA and/or were caused, if at all, solely and proximately by the conduct of Plaintiffs themselves or third parties including, without limitations, the prior, intervening or superseding conduct of such Plaintiffs or third parties.
5. Plaintiffs' claims are barred, in whole or in part because the applicable statute of limitations has lapsed with respect to such claims.
6. Plaintiffs' claims are barred, in whole or in part, because Plaintiffs failed to mitigate any damages they may have suffered.
7. Plaintiffs' claims are barred, in whole or in part, by the doctrine of waiver.
8. Plaintiffs' claims are barred, in whole or in part, by the doctrine of estoppel.
9. Plaintiffs' claims are barred, in whole or in part, by the doctrine of laches.
10. Plaintiffs' claims are barred, in whole or in part, since JBS USA had legitimate, independent business justifications for all of its conduct at issue in this matter.
11. Plaintiffs' claims are barred, in whole or in part, since JBS USA's conduct did not adversely affect competition in any relevant market.

12. Plaintiffs' claims are barred, in whole or in part, to the extent that they are subject to contractual arbitration and/or forum selection
13. Plaintiffs' claims are barred, in whole or in part, due to the ratification of, and consent to, the conduct of JBS USA.
14. Plaintiffs' claims are barred, in whole or in part, by the applicable limitations period set out in contracts and/or agreements executed by Plaintiffs.
15. Plaintiffs' claims are barred, in whole or in part, to the extent Plaintiffs seek to impose liability on JBS USA based on the exercise of any person or entity's right to petition federal, state and local governmental bodies, including through public statements, because such conduct was immune under the *Noerr-Pennington* doctrine and privileged under the First Amendment to the U.S. Constitution.
16. Plaintiffs' claims are barred, in whole or in part, by the Filed Rate Doctrine.
17. Plaintiffs' claims are barred, in whole or in part, by the doctrine of unclean hands.
18. Plaintiffs' claims are barred, in whole or in part, by the doctrine of accord and satisfaction.
19. Without admitting the existence of any contract, combination or conspiracy in restraint of trade, and expressly denying same, Plaintiffs' claims are barred, in whole or in part, by JBS USA's right to set off any amounts paid to Plaintiffs by any Defendants other than JBS USA who have settled, or do settle, Plaintiffs' claims against them in this action.
20. Plaintiffs' claims are barred, in whole or in part, by the pass-on defense.
21. Without admitting the existence of any contract, combination or conspiracy in restraint of trade, and expressly denying same, Plaintiffs claims are barred, in whole or in part, to the

extent that Plaintiff entered into cost-plus contracts with parties who purchased from Plaintiff before Plaintiff began paying any purported overcharge.

22. Plaintiffs' claims are barred, in whole or in part, to the extent they seek improper multiple damage awards, and damage awards duplicative of those sought in other actions, in violation of the Due Process guarantees of the Fifth and Fourteenth Amendments of the United States Constitution.
23. To the extent Plaintiffs claim that JBS USA fraudulently concealed any actions, Plaintiffs have failed to allege this fraud with the particularity required by Federal Rule of Civil Procedure 9(b).
24. Plaintiffs' claims are barred, in whole or in part, because any alleged anticompetitive effects of the conduct alleged by Plaintiffs do not outweigh the procompetitive benefits.
25. Plaintiffs' claims are barred, in whole or in part, under certain consumer fraud and/or consumer-protection statutes because Plaintiffs did not rely on—or were not induced to act by—JBS USA's conduct.
26. Plaintiffs' unjust-enrichment claims are barred, in whole or in part, because Plaintiffs did not confer any direct or indirect benefit on JBS USA.
27. Plaintiffs' unjust-enrichment claims are barred, in whole or in part, because Plaintiffs have an adequate remedy at law.
28. Plaintiffs' unjust-enrichment claims are barred, in whole or in part, because Plaintiffs received the benefit of the bargain.
29. Plaintiffs' unjust-enrichment and restitution claims are barred, in whole or in part, to the extent that they have never had an ownership or vested interest in the money or property sought to be recovered from JBS USA.



30. JBS USA adopts and incorporates by reference any and all other defenses asserted by any other Defendant to the extent that the defense would apply to JBS USA.

31. JBS USA has not knowingly or intentionally waived any applicable defenses, and it reserves the right to assert and rely upon other defenses as this action proceeds up to and including the time of trial. JBS USA reserves the right to amend or seek to amend its answers and/or affirmative defenses.

### **PRAYER FOR RELIEF**

WHEREFORE, JBS USA denies that Plaintiffs are entitled to any relief whatsoever and prays for relief from judgement as follows:

1. That judgment be entered in favor of JBS USA and against Plaintiffs on all their claims;
2. That Plaintiffs take nothing by their Complaint;
3. That the Complaint be dismissed with prejudice;
4. That JBS USA recover all attorneys' fees, costs, and expenses incurred in defense of this action; and
5. Further relief as the Court deems just and proper.

### **JURY TRIAL DEMAND**

Pursuant to the Federal Rules of Civil Procedure 38, JBS USA demands a trial by jury on all claims to triable.

*[Remainder of page intentionally left blank.]*

Dated: December 16, 2020

/s/ Sami H. Rashid

Sami H. Rashid (*pro hac vice*)

Stephen R. Neuwirth (*pro hac vice*)

Michael B. Carlinsky (*pro hac vice*)

Richard T. Vagas (*pro hac vice*)

David B. Adler (*pro hac vice*)

QUINN EMANUEL URQUHART & SULLIVAN,  
LLP

51 Madison Avenue, 22nd Floor

New York, NY 10010

(212) 849-7000

samirashid@quinnemanuel.com

stephenneuirth@quinnemanuel.com

michaelcarlinsky@quinnemanuel.com

richardvagas@quinnemanuel.com

davidadler@quinnemanuel.com

Donald G. Heeman (#286023)

Jessica J. Nelson (#347358)

Randi J. Winter (#391354)

SPENCER FANE LLP

100 South Fifth Street, Suite 2500

Minneapolis, MN 55402

(612) 268-7000

dheeman@spencerfane.com

jnelson@spencerfane.com

rwinter@spencerfane.com

*Counsel for JBS USA Food Company*

**CERTIFICATE OF SERVICE**

I hereby certify that on December 16, 2020 I electronically filed the foregoing JBS USA Food Company's Answer to Plaintiffs' Third Amended And Consolidated Class Action Complaint with the Clerk of the Court using the CM/ECF system, which will send a notice of the electronic filing to counsel for all parties.

/s/ Sami H. Rashid